

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL MEMORANDUM**

**HB 170 – SB 187**

March 31, 2015

**SUMMARY OF ORIGINAL BILL:** Establishes a new enhancement factor for judges to consider when sentencing a person. A judge may enhance a defendant's sentence if he/she committed the offense during the time period between the occurrence of a disaster or emergency and when the emergency ends or ceases to be a threat to the orderly administration of government regardless of whether a state of emergency has been declared.

**CORRECTED FISCAL IMPACT OF ORIGINAL BILL:**

Increase State Expenditures – \$154,400/Highest Projected Cost of Next 10  
Years/Incarceration\*

**SUMMARY OF AMENDMENT (005668):** Deletes all language after the enacting clause.

Establishes a new enhancement factor for judges to consider when sentencing a person. A judge may enhance a defendant's sentence if he/she committed the offense during the time period between the occurrence of a declared state of emergency and when the emergency ends or ceases to be a threat to the orderly administration of government.

Limits application of the enhancement to theft offenses under Title 39, Chapter 14, Part 1 and only those graded as a Class E felony (\$500-\$1,000).

**FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:**

**Increase State Expenditures – \$20,500/Highest Projected Cost of Next 10  
Years/Incarceration\***

Assumptions for the bill as amended:

- The bill creates a new enhancement factor whereby a judge may consider that a defendant committed the offense during the time period between the occurrence of a disaster or emergency and when the emergency ends or ceases to be a threat to the orderly administration of government regardless of whether a state of emergency has been declared.
- The bill limits application of the enhancement to theft offenses under Title 39, Chapter 14, Part 1 and only those that are graded as a Class E felony (\$500-\$1,000).

- It is assumed that the crimes most likely to occur during an emergency are theft of property and burglary. It is assumed that one-half of one percent (0.5%) of thefts and burglaries occur during emergencies, and that the sentences will be enhanced by the bill.
- Statistics from the Department of Correction (DOC) show the 10-year average of 332.5 admissions per year for theft (\$500-\$1,000).
- It is assumed that the bill will result two convictions for theft (\$500-\$1,000) ( $332.5 \times .005$ ), a Class E felony.
- According to the DOC, the average operating cost per offender per day for calendar year 2015 is \$66.03.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will not affect the theft (\$500-\$1,000) convictions.
- Statistics from the DOC show the average time served for theft (\$500-\$1,000), a Class E felony, is 1.19 years. The average time served for a Class D felony is 2.04 years. The bill will result in each offender serving an additional 0.85 years (2.04 years – 1.19 years).
- The DOC reports that 32.23 percent of offenders will re-offend within one year of their release. A recidivism discount of 32.23 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law ( $2 \text{ offenders} \times .3223 = .64 \text{ offenders}$ ).
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender [2 offenders – 1 (recidivism discount)] serving an additional 0.85 years (310.46 days) for a total of \$20,500 ( $\$66.03 \times 310.46 \text{ days}$ ).

*\*Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Jeffrey L. Spalding, Executive Director

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